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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 JEREMY DALE MCCASKILL,

9 *Petitioner,*

10 vs.

11 MICHAEL BUDGE, *et al.,*

12 *Respondents.*
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3:08-cv-00687-ECR-WGC

ORDER

14 This represented habeas matter under 28 U.S.C. § 2254 comes before the Court on
15 petitioner's unopposed motion (#81) for partial dismissal of the claims held by the Court to be
16 unexhausted.

17 The Court appreciates the efforts of both counsel in taking affirmative steps to try and
18 satisfy the expedited schedule set for petitioner to request relief as to the unexhausted claims
19 pursuant to *Rose v. Lundy*, 455 U.S. 509, 102 S.Ct. 1198, 71 L.Ed.2d 379 (1982). Depending
20 upon the relief sought and the ruling thereon, the *Rose* proceedings potentially could have
21 led to an interim administrative closure in advance of the Congressionally-mandated reporting
22 deadline for the case under the Civil Justice Reform Act (CJRA). That did not come to pass,
23 but the expedited action now has the case postured to move to a conclusion promptly.
24 Looking forward, the Court will be seeking to resolve the entire matter at the earliest possible
25 juncture and certainly no later than the next semiannual CJRA report deadline on September
26 30, 2012. Counsel therefore will need to continue to triage any scheduling conflicts that they
27 have with matters on the docket of this Court by seeking any necessary extensions in later-
28 filed cases rather than this case.

1 The next step in the case is for respondents to have their opportunity to file a reply brief
2 on their earlier motion to dismiss. The Court had suspended this final step in the briefing
3 pending the outcome of the *Rose* proceedings. The dismissal of the unexhausted claims
4 pursuant to this order moots any further argument directed to whether the unexhausted
5 Grounds 7 through 11 relate back to a timely-filed claim in an earlier pleading. The only
6 remaining point left for a possible reply brief pertains to respondents' assertion of the
7 procedural default defense to Ground 5(e) in part.

8 The Court will set a deadline for any reply in this order and thereafter will seek to
9 resolve this sole remaining issue from the motion to dismiss as promptly as possible following
10 the filing of a reply or the expiration of the time for doing so. In the order resolving this
11 remaining issue, the Court then will direct the filing of an answer and reply on 28-day intervals
12 for each such pleading. That should have the case submitted by no later than the end of
13 June for review and a final decision, if not before. The Court again emphasizes that, once
14 these deadlines are set, counsel need to make every effort to file their papers by the initial
15 deadline established. The Court again appreciates both counsel's efforts in this regard on
16 the expedited *Rose* proceedings.

17 IT THEREFORE IS ORDERED that petitioner's motion (#81) for partial dismissal is
18 GRANTED and that Grounds 2 and 7 through 11, only, are DISMISSED without prejudice.

19 IT FURTHER IS ORDERED that respondents shall have until **April 13, 2012**, within
20 which to file a reply with regard to their prior motion to dismiss.

21 DATED: March 30, 2012.

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24 EDWARD C. REED
25 United States District Judge
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